

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jane Doe

(b) County of Residence of First Listed Plaintiff Hidalgo
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Richard Alamia

113 S. 10th Ave.

Edinburg, TX. 78539

956-301-5766

DEFENDANTS

Pharr Police Chief, Ruben Villegas, Pharr Police Officer, Erasmo Mata, City of Pharr, Pharr Police Department

County of Residence of First Listed Defendant Hidalgo
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C 1983

Brief description of cause:

A person under the age of 18 was sexually assault by a police officer

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/12/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN, TEXAS

JANE DOE § CASE NO.

VS. §

PHARR POLICE CHIEF, RUBEN
VILLESCHAS, PHARR POLICE
OFFICER, ERASMO MATA,
CITY OF PHARR, TEXAS
PHARR POLICE DEPARTMENT §

PLAINTIFF'S ORIGINAL PETITION

NOW COMES JANE DOE, through her attorney of record, Richard Alamia, and files Plaintiff's Original Petition and will show the Court the following:

JURISDICTION, VENUE, AND CAUSE OF ACTION

1. This Court has jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. 1331.
2. This Court has jurisdiction over Plaintiff's civil rights extended by the United States Government under 28 U.S.C. 1343 (a) (1) (2) (3) and (4).
3. Venue is proper in this district pursuant to 28 U.S.C 1391.
4. Plaintiff brings this action pursuant to 42 U.S.C. 1983 to redress this deprivation, under color of state law, of rights secured by the Constitution of the United States.
5. This Court has jurisdiction over Plaintiff's claims under 42 U.S.C. 1985(3).
6. This Court has jurisdiction over Plaintiff's claims under 42 U.S.C. 1986.

7. This Court has jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. 1367 in that they arise out of a common nucleus of operative fact with federal claims.

PARTIES

8. The City of Pharr, this entity can be served at City Attorney Mike Pruneda, 118 S. Cage Blvd. Pharr, TX. 78577.
9. The Pharr Police Department can be served at 1900 S. Cage Blvd. Pharr, TX. 78577.
10. Ruben Villegas, Individually and he can be served at 1900 S. Cage Blvd., TX. 78577.
11. Erasmo Mata, Individually can be served at 1900 S. Cage Blvd. Pharr, TX. 78577.

BACKGROUND

12. Most of the factual allegations herein relating to the counts below took place within the City of Pharr from July 2013 through October 15th, 2013.
13. Pharr Police Officer, Erasmo Mata sexually assaulted Jane Doe, a person under the age of 18, on 5 different occasions during Mr. Mata's working hours.
14. Other Pharr Police Officers, would stand watch, while the sexual assault was being committed on Jane Doe.
15. A complaint was filed with the Pharr Police Department and an internal investigation took place.
16. The investigation revealed that everything Jane Doe was alleging was true and correct.
17. The Chief of Police, Ruben Villegas, told the family, not to hire an attorney, and that he would take care of the matter.

18. Nothing was ever done to any of the officers, they were eventually terminated, but no criminal charges were brought against them.
19. The Law Office of Richard Alamia, contacted the Texas Rangers, and they started there own investigation.
20. The Rangers' investigation, revealed that the allegations made by Jane Doe, are true and correct.
21. The evidence has been turned over to the Hidalgo County District Attorney's Office.
22. As of 05/02/2014, no charges have been filed against any of the Defendant's in this case.

COUNT 1: VIOLATION OF CIVIL RIGHTS PURSUANT TO TITLE 42 U.S.C.1983

23. Jane Doe, by reference incorporates all preceding paragraphs.
24. Jane Doe alleges that the PHARR POLICE DEPARTMENT, and the City of PHARR acted in concert in their actions, (or the lack thereof) in their official capacities, and individual capacities, to deny Jane Doe due process, equal protection, and the privileges and immunities of citizenship.
25. Said acts and omissions were the result of implementation of the policies of the Pharr Police Department and the City of Pharr.
26. The Pharr Police Department is a municipal law enforcement agency in the State of Texas, which employs sworn law enforcement personnel, who are given arrest authority and who have taken an oath to uphold the laws of the Texas Constitution and the laws

under the United States Constitution.

27. It is imperative for law enforcement to immediately assist any victim of a sexual assault and the collection of any physical evidence from the crime scene and from the victim of the sexual assault.
28. The Pharr Police Department had a duty to immediately send law enforcement personnel to the crime scene located within the City of Pharr, to investigate and collect any evidence of the sexual assault.
 - A. CRIME SCENE. Law enforcement should process the crime scene systematically for evidence to identify suspects, establish the occurrences of the crime, and verify or dispute statements of witnesses, victims, or suspects.
 - B. The Pharr Police Department personnel should have collected any/all items at various locations, having possible evidentiary value such as bedding, clothing, body fluids, etc.
29. The Pharr Police Department had a duty to immediately send law enforcement personnel to the hospital to obtain a statement from the victim of the sexual assault and establish the initial chain of custody by taking possession of the sexual assault evidence collection kit.
30. The Pharr Police Department has a duty to immediately store, preserve, and turn in the rape kit in a timely manner.
31. The Pharr Police Department acted with malice by not protecting Jane Doe to protect the interests of their associates.
32. The Pharr Police Department intentionally withheld information and documentation to prevent a prosecution of their associates, the perpetrators.
33. The Pharr Police Department implicitly and/or explicitly adopted and implemented

careless and reckless policies, customs, or practices, that include, among other violations, a policy for conducting rape cases that is an unconstitutional practice of government actors, and denies individuals equal protection of the laws, privileges and immunities under the laws.

34. The Pharr Police Department has adopted a policy of refusing to remove conflicted police officers and refuses to effectuate a special investigative team when required.
35. The Pharr Police Department has adopted a policy of permitting its officers to protect individuals who commit crimes with whom they are connected to in an effort to shield such individuals from prosecution.
36. The Pharr Police Department has adopted a policy of permitting its officers to intentionally manipulate evidence and withhold documentation in an effort to protect individuals who commit crimes with whom are connected to in an effort to shield such individuals from prosecution.
37. The Pharr Police Department has adopted a policy of intentionally withholding information in a probable cause affidavit, including, pictures, medical reports, and tapes of suspects.
38. The Pharr Police Department has adopted a policy of failing to secure protect and protect all information, documentation, and evidence in a rape investigation, such as a rape kit, medical records, victim advocates' statements, taped statements.

39. It is paramount the chain of custody be initiated and maintained after the collection of evidence by the health care personnel conducting the medical examination of the victim and law enforcement personnel of the Pharr Police Department.

40. Concealing, tampering or withholding evidence violates the Constitution or laws of the United States and therefore deprives plaintiff's civil rights.

COUNT II: VIOLATION OF CIVIL RIGHTS PURSUANT TO TITLE 42 U.S.C 1985(3)

Jane Doe, by reference incorporates all preceding paragraphs.

41. Jane Doe contends that the Pharr Police Department, and the City of Pharr acted in concert in their individual and official capacities to deny Jane Doe due process, equal protection, and the privileges and immunities of citizenship; and that all that acts and omissions were the result of implementation of the policies of the Pharr Police Department and the City of Pharr.

COUNT III: VIOLATION OF CIVIL RIGHTS PURSUANT TO TITLE 42 U.S.C 1986

Jane Doe, by reference incorporates all preceding paragraphs.

42. Jane Doe contends that the Pharr Police Department and the City of Pharr acted in concert in their official and individual capacities, to deny Jane Doe due process, equal protection, and the privileges and immunities of citizenship; and that all that acts and omissions were the result of implementation of the policies of the Pharr Police Department and the City of Pharr.

43. On many occasions, Officers would meet Plaintiff at an abandoned house and engage in sexual activity, while other Pharr Police Officers would stand guard and watch to make sure, no one was around.

COUNT IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Jane Doe, by reference incorporates all preceding paragraphs.

44. The Pharr Police Officers intentionally inflicted emotional distress on various occasions at the abandoned homes or other locations, throughout Pharr.

COUNT V: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Jane Doe, by reference incorporates all preceding paragraphs.

45. Pharr Police Officers negligently inflicted emotional distress on different occasions. The Officers engaged in conduct which intentionally and recklessly cause Jane Doe severe emotional trauma and duress of a serious nature and of a kind and extent normally expected to occur in a reasonable person under these same circumstances.

COUNT VI: CONSPIRACY

Jane Doe, by reference incorporates all preceding paragraphs.

46. The Pharr Police Officer, along with the chief of police, conspired to keep a lid on this issue and would not do an internal investigation against the other officers involved. When the parents found out about their daughter engaging in sexual intercourse with another officer, they went to the police to file a complaint and nothing was ever done.

COUNT VII: NEGLIGENCE

Jane Doe, by reference incorporates all preceding paragraphs.

47. The Defendants owed a duty to Jane Doe to refrain from the sexual assault.
48. The Pharr Police Department owed a duty to Jane Doe to control their employees, or agents of their employees, to conduct an investigation in a fair manner.
49. The City of Pharr owes a duty to Jane Doe and its citizens to properly train its police officers.

50. Defendants' breach proximately caused Jane Doe's injury.

51. Upon information and belief, Mata was terminated, at least in part, due to his misconduct in this case.

52. Upon information and belief, the other two officers were also terminated, at least in part, due to their misconduct in this case.

53. Upon information and belief, the Chief of Police for the City of Pharr has repeatedly approached the family of Jane Doe and told them not to talk about this case, and not to hire an attorney, in reference to this case.

COUNT VIII: INTIMIDATION

Jane Doe, by reference incorporates all preceding paragraphs.

54. Upon information and belief, the Chief of Police, for the City of Pharr has repeatedly approached the family of Jan Doe and has told them not to hire an attorney or talk about this case.

55. Such denials further demonstrate the animus and intentional misconduct in this case and that such misconduct is intentional and exceeds mere negligence.

56. As such, the City of Pharr, the Pharr Police Department, the Chief for the Pharr Police Department are responsible for any and all damages caused by these wrongful acts and/or omissions.

COUNT IX: FRAUD

Jane Doe, by reference incorporates all preceding paragraphs.

57. An internal investigation was done by the Pharr Police Department and all of the

allegations by Jane Doe, were true and correct. No one was arrested, or no criminal complaints filed.

58. As such the City of Pharr and the Pharr Police Department along with the chief of the department are responsible for any and all damages caused by these wrongful acts and/or omissions.

COUNT X: CONSTRUCTIVE FRUAD

Jane Doe, by reference incorporates all preceding paragraphs.

59. The Pharr Police Department was obligated to deal fairly with Jane Doe because a special relationship existed, that of a police officer and a citizen.

60. Such denials further demonstrate the animus and intentional misconduct in this case and that such misconduct is intentional and exceeds mere negligence.

61. As such the City of Pharr, the Pharr Police Department are responsible for any and all damages caused by these wrongful acts and/or omissions.

PRAYER

Wherefore, Jane Doe respectfully requests this Court to:

- A. Enter judgment in favor of Jane Doe on all counts of the complaint against Defendants, unless otherwise indicated;
- B. Award Jane Doe compensatory and punitive damages, including for pre and post judgment interest.
- C. Award Jane Doe any and all litigation costs, expert fees, reasonable attorney's fees, and any and all other fees as deemed appropriate.
- D. Require the Pharr Police Department and the City of Pharr to modify their policies to

ensure future protection of Jane Doe and similarly situated individuals;

E. Order a special investigation of this incident;

F. Award Jane Doe such other and further relief as this Court deems just under the circumstances.

DEMAND FOR JURY TRIAL

62. Jane Doe demands a trial by jury on all issues so triable.

Respectfully Submitted,

/s/Richard Alamia

Richard Alamia
113 S. 10th Ave.
Edinburg, TX. 78539
956-381-5766
956-381-5774
Federal Id: 1913
State Bar #: 00964200

VERIFICATION

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATIONS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

/s/Jane Doe